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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/761,858

01/21/2004

Alain Charles Louis Briancon

I-2-0424.1US

3069

24374

7590

09/11/2006

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EXAMINER

DESIR, PIERRE LOUIS

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/761,858

Applicant(s)

BRIANCON ET AL.

Examiner

Pierre-Louis Desir

Art Unit

2617

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 07 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-14.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.



  
JOSEPH FEILD  
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argue that Applicant argues that Mortensen's use of the phrase "alternate mobile" means switch the mobile phone to using an alternative parameter set. This is not the same as the present invention, adds Applicant, the term "idle" does not mean sleep; it refers to a state where the RL is not being acted upon by a RRM algorithm. A RL is still active in all other aspects while in an idle state.

Examiner respectfully disagrees with Applicants. Mortensen discloses that the switching to the alternate mode of operation is to make more efficient usage of the available channel. Thus, switching to the alternate mode provides to the mobile station efficient usage of the available channel, which broadly reads on the limitation as written.

Mortensen discloses a way of controlling load (congestion) on communication network by rejecting communication request through forbidding the mobile station to access the channel for some specified length of time by switching parameter set (as disclosed by the Applicant). Thus, in the initial parameter, there would be no communication, whereas in the alternative parameter, there would be communication. Thus, the as congestion occurs, the initial parameter is in the busy state (see paragraphs 32 and 37).

Also, when the mobile station switches parameter to make more efficient usage of the available channel capacity, RRM procedures are being, as broadly as one skilled in the art may interpret this language, performed and executed.

Applicant argues that the functions listed in paragraph 0024 do not anticipate the RRM procedures recited in the present invention. The list of functions included in paragraph 24 of Mortensen is a list of separate and distinct items. Namely that "scheduling of data services" and "other RRM mechanisms" are two separate items, and not a combination of things that make up one item.

Examiner respectfully disagrees with Applicant. First, the Applicant does not specifically describe what is included in the RRM procedures. Examiner asserts that RRM procedures are RRM functionalities and may be tasks or utilities, which encompass, as specified by Mortensen, dynamic channel allocations, call admission control, scheduling of data services and other RRM mechanisms.

Applicants also argue that Vucetic does not analyze of the results of the algorithms' performance to determine which algorithm to perform and that Vucetic conditions are not based on the algorithm's outcome. Applicants also add that Vucetic makesnot mention of choosing a subset of algorithms to determine an optimal set of results and fails to disclose choosing algorithm based on the outcome.

Examiner respectfully disagrees. Vucetic discloses that the algorithms are selected so that each one of them provides a significant performance advantage in comparison to the others under the given traffic and interference conditions. An algorithm becomes active in the network when the actual measured offered load and interference conditions indicate that this algorithm would provide the best performance in comparison to the other algorithm implemented in the switch. Therefore, the rection, as written, stands..